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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,611	12/30/2003	David Lewis Myers	19191	7499

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KIMBERLY-CLARK WORLDWIDE, INC.  
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NEENAH, WI 54956

EXAMINER

SALVATORE, LYNDIA

ART UNIT PAPER NUMBER

1771

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/748,611

Applicant(s)

MYERS ET AL.

Examiner

Lynda M. Salvatore

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 July 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 24-27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/24/04</u> | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election of Group I, claims 1-23 in the reply filed on 07/19/05 is acknowledged. Claims 24-27 are withdrawn as non-elected.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1-4, 6-15, and 17-22 are rejected under 35 U.S.C. 102(a) as being anticipated by Minemura et al., WO 03/026794 (published 4/3/03). (Note: US 6,936,094 is relied upon as a translation for the WO document)

The published application issued to Minemura et al., teaches an adsorbent spunbonded base electret sheet comprising thermoplastic sheath core bi-component thermoplastic fibers (abstract, column 5, 44-55 and column 10, 43-49). Minemura et al., further teach applying powdered thermoplastic resin to bond the adsorbent to the base sheet and to bond the base sheet (column 4, 1-15). With regard to claims 6 and 17, Minemura et al., teach forming the adsorbent sheet by hot pressing. Such a method would inherently meet the claimed impregnation limitation. With regard to claims 7 and 18, Minemura et al., teach ethylene-acryl copolymer resin. With regard to claims 8-10 and 19-21, Minemura et al., teach an amount of thermoplastic resin ranging from 1-40% (column 4, 63-67). With regard to the pleat limitation recited in claim 12, Minemura et al., teach pleating the adsorbent sheet (column 14, 8-20). Suitable uses include air filter (title).

***Claim Rejections - 35 USC § 102/103***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 23 is rejected under 35 U.S.C. 102(a) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Minemura et al., WO 03/026794 (see US 6,936,094).

Although Minemura et al., does not explicitly teach the claimed yield stress and plastic recovery properties, it is reasonable to presume that said properties are inherent to the adsorbent sheet provided by Minemura et al. Support for said presumption is found in the use of like materials such as an electret thermoplastic spunbonded base sheet comprising thermoplastic binder and the use of like process such as pleating, which would result in the claimed yield stress and plastic recovery properties. Applicant is invited to evidence otherwise. *In re Fitzgerald* 205 USPQ 594

In addition, the presently claimed yield stress and plastic recovery properties would obviously have been present once the Minemura et al., product is provided. *In re Best* 195 USPQ 433

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 5 and 16 are rejected under 35 U.S.C. 103(a) as being obvious over Minemura et al., WO 03/026794 (see US 6,936,094) as applied to claims 1 and 12 above, and further in view of Pike et al, US 5,873,968.

Minemura et al., does not explicitly teach employing polyethylene and polypropylene sheath core fibers, however, the patent issued to Pike et al., teach a filter media comprising a spunbond fabric formed from multi-component fibers (abstract and column 4, 5-50). Pike et al., specifically teach bi-component fibers made from polyethylene and polypropylene (column 4, 51-65).

Therefore, motivated by the desire to provide a filter media having a balance of properties, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the electret spunbond base sheet with the polyethylene-polypropylene bi-component fibers taught by Pike et al.

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. EP 0 955 087 A1

Art Unit: 1771

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M. Salvatore whose telephone number is 571-272-1482.


The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

September 22, 2005

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TERREL MORRIS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700